

**BATTLE CREEK CITY PLANNING COMMISSION
MEETING MINUTES
Wednesday, September 28, 2011**

1. Call to Order:

Chairman Preston Hicks, called the meeting to order at 4:00 p.m.

2. Attendance:

Members Present:

Steve Barker	Jan Frantz	William Morris
Susan Baldwin (Mayor)	John Godfrey	Chip Spranger
Dan Buscher	Preston Hicks	

Staff Excused: John Stetler

Staff Present: Christine Hilton, Planning Supervisor
Jill Steele, Deputy City Attorney
Glenn Perian, Senior Planner
Leona Parrish, Administrative Assistant, Planning Dept.

3. Additions or Deletions to the Agenda: Addition of Year 2012 Planning Commission meeting dates for approval as item (C.) under New Business.

4. Approval of Minutes: Meeting Minutes of May 25, 2011.

MOTION WAS MADE BY COMMISSIONER GODFREY, SUPPORTED BY COMMISSIONER BARKER, TO APPROVE THE PLANNING COMMISSION MEETING MINUTES FOR MAY 27, 2011 AS PRESENTED.

VOTE ON MOTION: ALL IN FAVOR; NONE OPPOSED; MOTION CARRIED.

5. Correspondence: None

6. Old Business:

A. Requested Ordinance Amendment to allow residential in all zoning districts:

Commissioner Hicks noted this item has been on the agenda several times and is a request for an ordinance amendment to allow residential in all zoning districts by Commissioner Stetler; with Commissioner Stetler excused today, he asked what the pleasure of this body regarding this matter. Commissioner Godfrey noted with Commissioner Stetler excused and not in attendance today; the Planning Commission should consider postponing this item until Commissioner Stetler is present as this item is per his request.

MOTION BY COMMISSIONER GODFREY, SUPPORTED BY COMMISSIONER BARKER TO POSTPONE DISCUSSION REGARDING ORDINANCE AMENDMENT TO ALLOW RESIDENTIAL IN ALL ZONING DISTRICTS UNTIL THE NEXT PLANNING COMMISSION MEETING.

A VOTE WAS TAKEN: ALL IN FAVOR; NONE OPPOSED; MOTION APPROVED.

7. New Business:

A. By-law Review: Ms. Christine Hilton stated she provided two documents, one shows the proposed changes to the current bylaws noted in red and blue and the second document is a clean version with the changes made; noted the revisions were done by the City Attorney's Office, Ms. Jill Steele, Deputy City Attorney. Stated it updated the by-laws for the newer legislation that they had recommended approval to the City Commission earlier in the year. Ms. Hilton discussed the changes that she recommended which are in blue print and stated Ms. Steele will discuss the changes made by the City Attorney's Office.

Ms. Jill Steele explained and discussed the suggested revisions that were outlined in red. Stated these changes were made by reviewing the Planning Enabling Act.

Discussion:

Mayor Baldwin made referenced of Article II, section 2, at the top of page 2; says it may be removed after a public hearing, which body holds the public hearing. Ms. Steele stated the City Commission does the appointments.

Commissioner Frantz stated she thought the Mayor made the appointments. Mayor Baldwin stated the Mayor appoints with the approval of the City Commission.

Mayor Baldwin made referenced page 2, 1st paragraph, 2nd from last line; the "or" should be changed to "of" which would read "meetings during one year (of) his or her term". Ms. Steele stated that was carried over from original document and think it does matter regarding the intent and makes sense for a correction to be done.

Ms. Steele made reference to Article V, Sec 9 "Conflict of Interest" on page 4; explained the changes made that came from the statute and noted that this is a broad definition and is how it was originally. Ms. Steele provided a hand-out of other options if they wished to use instead or said the commission could draft their own.

Commissioner Frantz referenced Section 9, line item (d); that the word "personally interested" is a broad description and does not have a pecuniary interest in the city; feel this is basically this is where there is a financial interest and wonder if it could say: "pecuniary instead of adding personally interested". Ms. Steele stated there is not a definition of "personal interest", and that is why she had said in a previous situation that arose, it is a very broad definition and this is what was in the by-laws all along. Noted there may be personal situations at times where it does amount to a conflict and this is why there are a couple of other options presented. (referenced document handed-out)

Commissioner Godfrey stated he would opt for a more defined description than what they have currently and thinks the section for "conflict of interest" is an extremely important topic that carries a great deal of legal implications and in his opinion; thinks it is better that they opt for what they currently have that is more defined than something that is broader.

Commissioner Hicks asked if the order of items listed (a. thru d.) under “Conflict of Interest” should be changed; move item (d) to become item (a). Stated he would like to hear what this body thinks about “personal interest” and he feels they are both acceptable.

Commissioner Spranger stated regarding option #2; before he voted he would like to see what the State Offices Act of 1968 language was, so he knew what he was voting on and would like to see it before it came time to vote.

Commissioner Barker noted they recently attended Citizen Planner Training sessions and had talked a lot about “Conflict of Interest” which reads: “it exists when a member of a public body has an economic personal or family connection to a matter before them, which may prevent or appear to prevent an objective vote”. Commissioner Barker noted with that being said, between options #1 & #2; he would prefer the definition of the “conflict of interest” under option #1, but also thinks it is helpful to site the statutes in option #2 because they were included in their material and are a part of State Law.

Ms. Steele stated option #2 is copied from the City Commissions “Conflict of Interest” reference and does not specifically reference these statutes; she brought them up, and what the City Commissions basically says is that they have the disclosure provision that is already contained in their by-laws so, it provides more detail than what the City Commission has. Noted that what Commissioner Barker read might fit well with option #1 by inserting that extra information and might be an option to have included.

Commissioner Barker asked if they could incorporate the information he read under the definition of “conflict” into option #1 and if the Attorneys Office agrees to have included; he would respect their professional opinion.

Commissioner Hicks asked Ms. Jill Steele if the Attorney’s Office would incorporate the changes as their office decides is professionally fit and they will review the changes. Ms. Steele stated they would also reorder the items so that the “conflict of interest” definition is first and the others follow.

Commissioner Buscher asked about item #1; and if they needed to be that specific, or would they be creating more of a problem for ourselves later on. Commissioner Hicks stated that it gives context, but that Commissioner Buscher is correct when you say “anything” being all inclusive; and think they are examples for him to keep on tract.

Ms. Jill Steele asked Commissioner Buscher if they are going too far in adding what Commissioner Barker suggested; Commissioner Buscher stated when you list specific things, you are going down a slippery slope, how far do you deem to be a conflict; if you leave it as “anything that may cause an appearance of impropriety” should be disclosed to the members; certainly takes care of all of those and would be up to the members to vote. Several of the Planning Commissioners certainly have interest and sometimes if we are too specific we are actually killing the intent of the statute just to avoid the appearance of impropriety. Stated he would prefer fewer specifics as opposed to more, unless a body as determined as a whole whether a conflict exist or not instead of being locked in to a set of rules of what is or is not.

Ms. Steele stated she believes that is what the preference of the majority of this body and that there may be some circumstances where it would not get to them for a vote; where there would be a request from her staff where they would say it is clearly a conflict of interest and a Planning Commissioner's may be asked to disqualify themselves. Ms. Steele stated it would be up to the Planning Commission to decide what their preference would be on how it is decided.

Commissioner Barker said when a conflict is introduced; under what conditions would the commission actually take a vote or can a Planning Commissioner merely excuse themselves from vote.

Commissioner Godfrey made note from the class taken; that City of Battle Creek is the only group of the three that have an attorney present at their meetings to judge regarding a conflict of interest. So, since a legal opinion is available to them, he is not sure if they would need to vote.

Mayor Baldwin stated if a member discloses a conflict of interest that the other commissioner's still vote on if they are to be excluded from voting; this is done to not allow commissioners to not vote just because of the topic.

Commissioner Barker feels they do not need a mechanism to not allow persons from abstaining from vote for no need.

Commissioner Morris stated there was a time at the City Commission when he felt there was conflict of interest and was told he had an obligation to vote. Stated he feels they should have the opinion from the City Attorney if they should vote, reclude or not vote.

Commissioner Barker asked for answer to his question: when a conflict is introduced; under what conditions would the commission actually take a vote or can a Planning Commissioner merely excuse themselves from vote.

Ms. Steele provided an example of a petition reviewed prior to the meeting and a decision is made to vote to allow them to abstain.

Commissioner Hicks asked the Deputy City Attorney to take into account all the comments made by the Planning Commissioners today regarding the by-law revisions and bring back to them for approval.

Commissioner Frantz asked that they add Commissioner Buscher's recommendation about being broad rather than narrow in their definition and also eliminate the word "personal" from the "Conflict of Interest" policy and replacing it with things like legal, fiduciary, or family related as she feels it can be better defined than using "personal".

Jill Steele said it would be helpful to her if the commissioners went through the document and note changes they suggest for example Commissioner Frantz "personally" definition under the Section 9, Conflict of Interest.

Commissioner Buscher stated that he and Commissioner Frantz had discussed this matter and feel the general tender is that anything that may have the appearance of impropriety should be

disclosed to the board and would be taken care of either by city's legal opinion or discuss amongst the ourselves and feel they do not need any reference to familiar or personal relationship as it would fall under the umbrella of the appearance of impropriety.

Commissioner Frantz stated the rest of the document is very well done and think that was the only section might have given them some problems.

Mayor Baldwin wanted to ensure that the information that Commissioner Barker added gets to Ms. Steele. Noted she would have liked to have been able to attend the Michigan Citizen Planner Classes, but her schedule did not permit her to attend.

Commissioner Barker noted on Pg. 1 Article II, Sec 2; membership put (.) after Commission. Also unclear regarding page 2, vacancies (paragraph 3); term to be filled City Commission members are all appointed by the Mayor. Ms. Steele stated she would review for additional information within our ordinance as there was nothing in the Zoning and Enabling Act.

Commissioner Godfrey noted the Mayor appoints the non-commissioners and appoints a commissioner from the City Commission in the consent agenda, so it is voted on by the City Commission and if there was a feeling, they could withdraw that particular motion from the consent agenda and put it in the regular agenda and have a discussion if they felt that was not the best candidate from the commission. Stated as it is now the Mayor appoints everyone, but the City Commissioner does go into the consent agenda and is voted on by the City Commission unless things have changed, as the mayor is listed as the ex-officio.

Commissioner Barker asked if all members are then appointed by the Mayor, as he does not understand when a commissioner is appointed by the City Commission.

Commissioner Morris stated yes, it is correct as Commissioner Godfrey stated; it is on the consent agenda and that it can be pulled from that agenda for discussion, which does happen from time to time; noted the Mayor appoints all members and one is a City Commissioner also appointed by the Mayor and all are approved by City Commission.

Commissioner Barker noted that at the last City Commission meeting there was a City Commissioner that voted no for a nomination as they wanted to see new persons sitting on that committee. Stated he was surprised by that, as he was under the impression that the decision to appoint was vested with the Mayor of the City.

Ms. Jill Steele, Deputy City Attorney stated that it is in the Planning Enabling Act that the Mayor appoints persons subject to approval by a majority of City Commission vote.

Commissioner Godfrey asked Commissioner Barker if he would feel better about Section 3 if it were changed by the City Attorney. Commissioner Barker stated yes, he thinks there is a phrase there that is not needed.

B. Zoning Map Revision:

Ms. Christine Hilton, Planning Supervisor shared information regarding adoption of the zoning maps, stated the most recent was with the zoning ordinance amendment in 1984

when the City merged with Battle Creek Township. Noted that since that time there has been 111 rezonings and has been a transition from paper maps to digital maps that were created nine years ago in-house and there had been some disconnect between departments when done and are somewhat different; referenced copies she provided on the board and noted where the boundaries were not alike, also split zones not all being accurate. Stated there are approximately 735 properties that are shown as being split zoned and she feels there are probably only about 100 or 150 that are actually split zoned properties. Said she will be working on the zoning map and does not intend to rezone any properties; just make corrections to the map to ensure the zoning districts go to the parcel lines and to go to the center of the street and will be working with the City Attorney's office and also notify property owners of any change.

Commissioner Godfrey asked if Ms. Hilton she would be looking at Special Use Permits where zoning use is changed with the land. Ms. Hilton stated SUP does not change the underlying zoning district that they are in, only its use. Noted she also wants to work on an existing land use map and those are the situations where they would take Special Use Permits into account.

Mayor Baldwin asked about persons receiving the rezoning letters and asked that we make sure it is written as to not scare them and that it states that their property is not being rezoned so they do not get upset; possibly announce it at a City Commission meeting or in the newspaper so persons are not panicking. Ms. Hilton stated she will bring the revisions to the Planning Commission and a recommendation to City Commission and will still require a Public Hearing, notice in the paper, in addition to letters to any property owners.

C. Planning Commission Meeting Dates for Year 2012:

A copy of the proposed Planning Commission meeting dates for the Year 2012 was provided for review and approval. It was noted that all meeting dates will be held on the 4th Wednesday of each month, except for the month of December; noted that December 19th will be an alternate date for that month due to a conflict with the holiday.

MOTION BY COMMISSIONER GODFREY, SUPPORTED BY COMMISSIONER MORRIS TO APPROVE THE MEETING DATES FOR THE YEAR 2012 PLANNING COMMISSION MEETINGS AS SUBMITTED.

A VOTE WAS TAKEN: ALL IN FAVOR; NONE OPPOSED; MOTION APPROVED.

9. Comments by the Public: None

10. Comments by the Staff and Commission Members:

Commissioner Godfrey wanted to thank the City of Battle Creek for allowing him to participate in the Michigan Citizen Planning training course being taught by MSU; noted it is an extremely well written course and taken a lot of hours. Stated it has been very worth-while with the trainers having tremendous knowledge in both planning and zoning well established and versed in the subject that provided a lot of references and has been extremely beneficial to him to be able to attend.

Commissioner Barker wanted to echo Commissioner Godfrey's comment and noted that the city was represented by four persons from the City of Battle Creek. Stated they provided very helpful material which was very easy for the lay person to understand and appreciated the opportunity for the training and hope others take the opportunity when it becomes available.

Commissioner Hicks thanked the Planning Team here today; noted he sat in on another planning meeting a few months ago and is thankful for everyone here today.

Ms. Hilton stated there will be an October and November Planning Commission meeting where they will be reviewing the application hopefully from Mr. Christian for Goguac Lake Seasonal Commercial Business; as he will be changing the scope of his project and he was asked to re-apply a revised application for his SUP and it has not been received to date. Ms. Hilton noted in October they have another Special Use Permit for Emily Andrus Home Association; will be reviewing the bylaws and also if Commissioner Stetler is in attendance his request will be back on the agenda for discussion. Noted in November there will be a presentation for Woodland Park by Ted Dearing, Parks and Recreation Department.

Commissioner Hicks noted at the last meeting they were thinking about a process for having commissioners to bring to Ms. Hilton concerns or items; was that clear to everyone. All agreed

Mayor Baldwin asked what the alternate Planning Commission meeting dates are for the months November and December of this year. It was noted that both months have alternate meeting dates of November 30, 2011 and December 21, 2011; to avoid a conflict with the holidays.

11. Adjournment: The meeting adjourned at 5:02 P.M.

Respectfully Submitted,

Christine M. Hilton, AICP
Executive Secretary, Planning Commission